

Response Under 37 CFR 1.116

Expedited Procedure

Examining Group 3600

Application No.: 10/773,912

Paper Dated: June 5, 2008

In Reply to: USPTO Office Action dated February 2, 2008

Attorney Docket No.: 4461-040040

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/773,912	Confirmation No.: 7385
Applicant	:	Constantine A. DOMASHNEV	
Filed	:	February 6, 2004	
Title	:	Electronic Prescription Handling System	
Group Art Unit	:	3626	
Examiner	:	Neal SEREBOFF	
Customer No.	:	28289	

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. § 1.132

I, Constantine Domashnev, hereby declare as follows:

1. I am the named inventor of the invention described and claimed in the above-identified application entitled "Electronic Prescription Handling System", which was filed in the United States Patent and Trademark Office on February 6, 2004 and bears Serial No. 10/773,912.

2. As being the inventor, I am considered to be a person having ordinary skill in the art of ASP medical computing implementations. I have Master's degree in Math (Mathematical Cybernetics) and Master's degree in Industrial Administration (Operations Management and Automation). Around 2003 I have conceived and developed a prototype ASP which I believed should reduce the workload to everyone who handles medical prescriptions: Medical Doctors, Pharmacists, Recipients of, and Pharmaceutical Insurance Providers. I have conducted a small survey amongst local Medical Doctors and I have found that the critical group of potential users (Medical Doctors) would be interested in 2.a) using and 2.b) paying for my system. I also have an understanding of the teachings in United States Patent Application Publication 2002/0052760 to Munoz et al. (hereinafter "the Munoz publication") and United States Patent Application Publication 2003/0195838 to Henley (hereinafter "the Henley publication").

3. After review of the Munoz and Henley publications, I do not view either reference to contain any suggestion or motivation for one skilled in the art of ASP

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medical-based computing implementations to utilize the teachings of either the Munoz or Henley publication in the context of an electronic prescription handling system according to the present invention. I make this statement based on the fact that:

(a) The deficiency of the system disclosed in the Munoz publication, among other things, lies in the fact that physicians are charged with the task of collecting, reviewing, and forwarding the bids to the patient, in paper form, nonetheless. In practice, the physicians will not have time to review all the bids and the workload will be increased for them. This, in effect, increases the cost of the prescription (i.e., increased overhead costs need to be passed on to the patient), which is opposite to the intended goal of the present invention. The service provider of the present invention undertakes this aforementioned increased overhead. Specifically, the patient is allowed to view and select from the offered bids via their own computer. The physician's duties therefore only extend to submission of the prescription, which is no different or incurs greater effort and resources, than is currently employed by a physician. It is more effective to allow the patient to view and select from the various bids because multiple criteria is to be taken into account. The patient's decision will be based, among other things, on geographic location, proximity to commuting routes, immediate availability, discount cards with some specific pharmacies, etc. It is not a single criteria choice (i.e., cost), as discussed in the Munoz publication. For example, if the cost of the medication was the only criteria, all patients would drive to Canada for their prescriptions. However, the cost of gas and time budgeting are part of the equation, as well; and

(b) In a simplistic view, the present invention may be termed to be a reverse auction. In the Henley publication, there is a disclosure with respect to "registered buyers" (e.g., patients) who have the ability to log-in to a computer system using their own computer for purposes of buying prescriptions at offered prices set forth by vendors. However, this disclosure in the Henley publication is akin to a traditional auction, as opposed to the reverse auction of the present invention. This assertion is supported by the fact that "registered buyers" in the Henley system can outbid other "registered buyers". However, the present invention is more than just a reverse auction in that a user (i.e., the patient) of the service is provided with multiple choices and trade-offs with respect to formulating a decision as to which pharmacy to utilize in filling the prescription. For example, convenience of picking up the medication and availability of the medication are factors which may cause the user to select a more expensive bid. Neither the Munoz nor Henley publications, either alone or in combination, disclose, teach, or suggest an ASP-based electronic prescription handling system comprising an auction conducive to multi-objective prescription choices offered to a patient.

4. The "Auto-run" feature of Microsoft Windows operating system can utilize a script file "autorun.inf" that is found on a portable storage medium that is recognized by the operating system, which in turn causes the associated executable file to run (see <http://en.wikipedia.org/wiki/Autorun>). In other words, the computer on which the storage medium is to be loaded automatically executes the application on the storage medium once the storage medium interfaces with the computer. This is accomplished by having an

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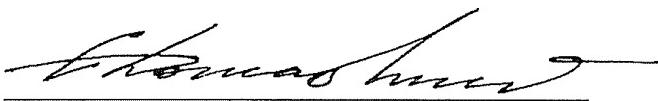
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application on the storage medium include a file associated therewith (e.g., autorun.inf) for instructing the computer to execute the application.

5. There is an unfulfilled need in the electronic prescription industry to provide a system and method for providing a physician with authenticated access to generate a prescription from any Internet-connected computer, whereby a patient for whom the prescription is written invites bidding on his or her prescription in order to realize cost savings over market-priced drugs in the context of multi-objective prescription choices.

6. I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.



Constantine Domashnev

July 03, 2008